be valid in some of its provisions and invalid as to others."' Id., 175 Ala. 267, 57 South. 30, 31.

'Whenever a question arises as to the reasonableness vel non of a municipal ordinance, which relates to a subject within the corporate jurisdiction, it will always be presumed to be reasonable, unless the contrary appears on the face of the law itself, or is established by proper evidence. Van Hook *v.* City of Selma, 70 Ala. 361, 45 Am. Rep. 85.' Miller *v.* Birmingham, 151 Ala. 471, 44 South. 388, 125 Am. St. Rep. 31."

Sales—Canned Goods.—In Ward *v.* Great Atlantic & Pacific Tea Co. (Mass.), 120 N. E. 225, it was held that a customer at a retail store ordinarily is bound to rely on the skill and experience of the seller in determining the kind of canned goods he will purchase, unless he demands goods of a definite brand or trade-name.

The court said: "It was said in Farrell *v.* Manhattan Market Co., 198 Mass. 271, 279, 280, 281, 84 N. E. 481, 485, (15 L. R. A. [N. S.] 884, 126 Am. St. Rep. 436, 15 Ann. Cas. 1076) a case arising before the Sales Act:

'Finally, provisions may be ordered by the purchaser in person in the dealer's shop, in such a way that it is made known to the dealer that his knowledge and skill are relied on to supply a wholesome food, and, if they are so ordered, he is liable if they are not fit to be eaten. * * * If the sale is by a dealer and the selection of food is left to him, it is an implied term or condition of the sale that the provisions sold shall be fit for food whether supplied under a pre-existing contract * * * or in response to an order not given in person * * * or even when the order is given in person in the dealer's shop, provided * * * that the selection is left to the dealer. * * * But, even when the sale is by a dealer, if the provisions are selected by the buyer and the selection is not left to the judgment and skill of the dealer, the general rule applies and the dealer is not liable (in the absence of knowledge by the dealer that the provisions are unsound) if provisions are not fit for food.'

The opinion in that case contains an exhaustive review of the authorities. See, also, in this connection, Race *v.* Krum, 222 N. Y. 410, 414, 118 N. E. 853; Cook *v.* Darling, 160 Mich. 475-481, 125 N. W. 411; Parks *v.* Alfes, 93 Kan. 334-337, 144 N. E. 202, L. R. A. 1915C, 179, and note L. R. A. 1917F 472 to 475. There is no room for the exercise of individual sagacity in picking out a particular can. The customer at a retail store is ordinarily bound to rely upon the skill and experience of the seller in determining the kind of canned goods which he will purchase, unless he demands goods of a definite brand or trade-name. The situation is quite different from the choice of a fowl or a piece of meat from a larger stock,

all open to inspection, where there is opportunity for the exercise of an independent judgment by both the buyer and the seller, and where, therefore, the fact as to the one who makes the selection is of significance, as in the Farrell Case. The case at bar must be treated on the footing, as matter of necessary inference arising from the relation of the parties, so far as that is material in view of the other facts, that the plaintiff relied upon the knowledge and trade wisdom of the defendant in purchasing the can of beans. In the absence of an express statement to the contrary, this must be regarded as a necessary inference from the relation of parties.

There appears to us to be no sound reason for ingrafting an exception on the general rule, because the subject of the sale is canned goods, not open to the immediate inspection of the dealer, who is not the manufacturer, any more than of the buyer. It doubtless still remains true that the dealer is in a better position to know and ascertain the reliability and responsibility of the manufacturer than is the retail purchaser. But the principle stated in Farrell *v.* Manhattan Market Co., 198 Mass. 271, 84 N. E. 481, 15 L. R. A. (N. S.) 884, 126 Am. St. Rep. 436, 15 Ann. Cas. 1076, is a general one. It has long been established. Simply because it may work apparent hardship in certain instances is no reason for changing it to fit particular cases. It is a salutary principle. It has become wrought into the fabric of the law as the result of long experience. It may be assumed that the affairs of mankind have become adjusted to it. It has recently been adopted by the Legislature in codifying the law as to sales. It imposes liability in the absence of an express contract between the parties governing the subject. It places responsibility upon the party to the contract best able to protect himself against original wrong of this kind, and to recoup himself in case of loss, because he knows or comes in touch with the manufacturer. In the case at bar the plaintiff had no means of ascertaining the manufacturer from inspection of the goods bought. The retail purchaser in cases of this sort ordinarily would be at some disadvantage if his only remedy were against the manufacturer."